

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 920 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SALIMSHA BISMILASHA FAKIR

Versus

COMMISSIONER OF POLICE

Appearance:

MS BANNA S DATTA for MS KRISHNA U MISHRA for Petitioner
MR SS PATEL. AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 09/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 10th November, 1998, made by the

Commissioner of Police, Surat City, under the powers conferred upon him under sub-section (1) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'dangerous person ' within the meaning of section 2 (c) of the Act, and his activities are found to be prejudicial to the maintenance of public order. Two offences punishable under Chapter-XVII of the IPC are registered against the petitioner are pending investigation. Besides, two individuals, on assurance of anonymity, have given statements in respect of the anti-social activities of the petitioner and more particularly about the incidents that occurred on 14th July, 1998 and 20th August, 1998. It is alleged that the activities of the petitioner disturb the public tranquility and the even tempo of life.

The petitioner and one Yusufkhan were, under the orders dated 10th November, 1998 ordered to be detained under the Act. The said Yusufkhan challenged the order of preventive detention in Special Civil Application No. 173/99. The said petition has been heard and allowed today. Since the present petitioner has been ordered to be detained under the Act on the same grounds and on the same evidence, the petitioner also requires to be meted out with the same treatment.

For the reasons recorded in the judgment delivered in Special Civil Application No. 173/99, the present petition is allowed. The order dated 10th November, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI